

a project constructed on the Federal-aid secondary system, or within a municipality, such highway department shall enter into a formal agreement for its maintenance with the appropriate officials of the county or municipality in which such project is located.

(c) If at any time the Secretary shall find that any project constructed under the provisions of this chapter or constructed under the provisions of prior Acts, is not being properly maintained, he shall call such fact to the attention of the State highway department. If, within ninety days after receipt of such notice, such project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types in the State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State in which such project is located, whichever the Secretary deems most appropriate, until such project shall have been put in proper condition of maintenance.

(d) PREVENTIVE MAINTENANCE.—A preventive maintenance activity shall be eligible for Federal assistance under this title if the State demonstrates to the satisfaction of the Secretary that the activity is a cost-effective means of extending the useful life of a Federal-aid highway.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 896; Pub. L. 86-70, §21(d)(2), (e)(3), June 25, 1959, 73 Stat. 145, 146; Pub. L. 90-495, §26, Aug. 23, 1968, 82 Stat. 829; Pub. L. 95-599, title I, §124(d), Nov. 6, 1978, 92 Stat. 2705; Pub. L. 97-424, title I, §114, Jan. 6, 1983, 96 Stat. 2107; Pub. L. 100-17, title I, §125(b)(2), Apr. 2, 1987, 101 Stat. 167; Pub. L. 104-59, title III, §309, Nov. 28, 1995, 109 Stat. 582.)

AMENDMENTS

1995—Subsec. (d). Pub. L. 104-59 added subsec. (d).

1987—Subsecs. (d), (e). Pub. L. 100-17 struck out subsecs. (d) and (e) which read as follows:

“(d) The Secretary in consultation with the State highway departments and interested and knowledgeable private organizations and individuals shall as soon as possible establish national bridge inspection standards in order to provide for the proper safety inspection of bridges. Such standards shall specify in detail the method by which inspections shall be conducted by the State highway departments, the maximum time lapse between inspections and the qualifications for those charged with the responsibility for carrying out such inspections. Each State shall be required to maintain written reports to be available to the Secretary pursuant to such inspections together with a notation of the action taken pursuant to the findings of such inspections. Each State shall be required to maintain a current inventory of all bridges.

“(e) The Secretary shall establish in cooperation with the State highway departments a program designed to train appropriate employees of the Federal Government and the State governments to carry out bridge inspections. Such a program shall be revised from time to time in light of new or improved techniques. For the purposes of this section the Secretary may use funds made available pursuant to the provisions of section 104(a) and section 307(a) of this title.”

1983—Subsec. (c). Pub. L. 97-424 substituted “State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State in which such project is located, whichever the Secretary deems most appropriate,” for “entire State” after “all types in the”, and struck out exception for a situation where such project was subject to an agreement pursuant to subsection (b) of this section, in which case approval was to have been withheld only

for secondary or urban projects in the county or municipality where such project is located.

1978—Subsec. (d). Pub. L. 95-599 struck out provisions limiting provisions of the subsection to the Federal-aid system.

1968—Subsecs. (d), (e). Pub. L. 90-495 added subsecs. (d) and (e).

1959—Subsec. (a). Pub. L. 86-70, §21(e)(3), substituted “It” for “Except as provided in subsection (d) of this section, it”.

Subsec. (d). Pub. L. 86-70, §21(d)(2), repealed subsec. (d) which related to expenditure of funds apportioned to the Territory of Alaska and contributed by the Territory for the maintenance of roads.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by section 21(d)(2) of Pub. L. 86-70 effective July 1, 1959, see section 21(d) of Pub. L. 86-70, set out as a note under section 103 of this title.

Amendment by section 21(e)(3) of Pub. L. 86-70 effective July 1, 1959, see section 21(e) of Pub. L. 86-70, set out as a note under section 101 of this title.

ESTABLISHMENT OF MINIMUM FEDERAL GUIDELINES FOR MAINTENANCE; STUDY BY NATIONAL ACADEMY OF SCIENCES AND REPORT

Section 163 of Pub. L. 100-17 directed Secretary to enter into appropriate arrangements with the National Academy of Sciences to conduct a complete investigation of the appropriateness of establishing minimum Federal guidelines for maintenance of the Federal-aid primary, secondary, and urban systems and, not later than 18 months after entering into appropriate arrangements, the National Academy of Sciences was to submit to Secretary and Congress a report on the results of the investigation and study together with recommendations (including legislative and administrative recommendations) concerning establishment of minimum Federal guidelines for maintenance of the Federal-aid primary, secondary, and urban systems.

§ 117. Certification acceptance

(a) The Secretary may discharge any of his responsibilities under this title relative to projects under this chapter, except projects on the Interstate System, upon the request of any State, by accepting a certification by the State highway department, or that department, commission, board, or official of any State charged by its laws with the responsibility for highway or other transportation construction, of its performance of such responsibilities, if he finds such projects will be carried out in accordance with State laws, regulations, directives, and standards which will accomplish the policies and objectives contained in or issued pursuant to this title.

(b) The Secretary may accept projects based on inspections of a type and frequency necessary to ensure the projects are completed in accordance with appropriate standards.

(c) The procedure authorized by this section shall be an alternative to that otherwise prescribed in this title. The Secretary shall promulgate such guidelines and regulations as may be necessary to carry out this section.

(d) Acceptance by the Secretary of a State's certification under this section may be rescinded by the Secretary at any time if, in his opinion, it is necessary to do.

(e) Nothing in this section, section 106(b), section 133, and section 149 shall affect or discharge any responsibility or obligation of the Secretary under any Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), section 303 of title 49, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d),¹ et seq.), title VIII of the Act of April 11, 1968 (Public Law 90-284, 42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), other than this title.

(f)(1) In the case of the Federal-aid secondary system, in lieu of discharging his responsibilities in accordance with subsections (a) through (d) of this section, the Secretary may, upon the request of any State highway department, discharge his responsibility relative to the plans, specifications, estimates, surveys, contract awards, design, inspection, and construction of all projects on the Federal-aid secondary system by his receiving and approving a certified statement by the State highway department setting forth that the plans, design, and construction for each such project are in accord with those standards and procedures which (A) were adopted by such State highway department, (B) were applicable to projects in this category, and (C) were approved by him.

(2) The Secretary shall not approve such standards and procedures unless they are in accordance with the provisions of subsection (b) of section 105, subsection (b) of section 106, and subsection (c) of section 109, of this title.

(3) Paragraphs (1) and (2) of this subsection shall not be construed to relieve the Secretary of his obligation to make a final inspection of each project after construction and to require an adequate showing of the estimated cost of construction and the actual cost of construction.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 897; Pub. L. 93-87, title I, §116(a), Aug. 13, 1973, 87 Stat. 258; Pub. L. 94-280, title I, §116, May 5, 1976, 90 Stat. 436; Pub. L. 97-449, §5(d)(1), Jan. 12, 1983, 96 Stat. 2442; Pub. L. 102-240, title I, §1016(f)(2), Dec. 18, 1991, 105 Stat. 1946.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (e), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (e), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (2000d et seq.) of chapter 21 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

Title VIII of the Act of April 11, 1968, (Pub. L. 90-284), referred to in subsec. (e), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, as amended, known as the Fair Housing Act, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42 and Tables.

¹ So in original. Probably should be "42 U.S.C. 2000d."

The Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, referred to in subsec. (e), probably means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is act Jan. 2, 1971, Pub. L. 91-646, 84 Stat. 1894, as amended, and which is classified principally to chapter 61 (§4601 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-240, §1016(f)(2)(A), (B), substituted "under this chapter, except projects on" for "on Federal-aid systems, except" and inserted "or other transportation" before "construction".

Subsec. (b). Pub. L. 102-240, §1016(f)(2)(C), added subsec. (b) and struck out former subsec. (b) which read as follows: "The Secretary shall make a final inspection of each such project upon its completion and shall require an adequate report of the estimated, and actual, cost of construction as well as such other information as he determines necessary."

Subsec. (e). Pub. L. 102-240, §1016(f)(2)(D), inserted "section 106(b), section 133, and section 149" after "this section".

1983—Subsec. (e). Pub. L. 97-449 substituted "section 303 of title 49" for "section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f))".

1976—Subsec. (a). Pub. L. 94-280, §116(a), substituted "which will accomplish the policies and objectives contained in or issued pursuant to this title" for "establishing requirements at least equivalent to those contained in, or issued pursuant to, this title".

Subsec. (f). Pub. L. 94-280, §116(b), added subsec. (f).

1973—Pub. L. 93-87 substituted "Certification acceptance" for "Secondary road responsibility" in section catchline.

Subsec. (a). Pub. L. 93-87 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The Secretary may, upon the request of any State highway department, discharge his responsibility relative to the plans, specifications, estimates, surveys, contract awards, design, inspection, and construction of all projects on the Federal-aid secondary system by his receiving and approving a certified statement by the State highway department setting forth that the plans, design, and construction for each such project are in accord with those standards and procedures which (1) were adopted by such State highway department, (2) were applicable to projects in this category, and (3) were approved by him."

Subsec. (b). Pub. L. 93-87 incorporated provisions of former subsec. (c), required the Secretary to include in the report such other information as he determines necessary, and deleted former subsec. (b) provisions which prohibited the Secretary from approving any standards and procedures unless they were in accordance with sections 105(b), 106(b), and 109(c) of this title.

Subsec. (c). Pub. L. 93-87 added subsec. (c). Former subsec. (c), which provided that subsecs. (a) and (b) should not be construed to relieve the Secretary of his obligation to make a final inspection of each project after construction and to require an adequate showing of the estimated cost of construction and the actual cost of construction, was incorporated in subsec. (b) of this section.

Subsecs. (d), (e). Pub. L. 93-87 added subsecs. (d) and (e).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as a note under section 104 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 112, 114 of this title.

§ 118. Availability of funds

(a) DATE AVAILABLE FOR OBLIGATION.—Except as otherwise specifically provided, authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out this title shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(b) PERIOD OF AVAILABILITY; DISCRETIONARY PROJECTS.—

(1) INTERSTATE CONSTRUCTION FUNDS.—Funds apportioned or allocated for Interstate construction in a State (other than Massachusetts) shall remain available for obligation in that State until the last day of the fiscal year in which they are apportioned or allocated. Sums not obligated by the last day of the fiscal year in which they are apportioned or allocated shall be allocated to other States, except Massachusetts, at the discretion of the Secretary. All sums apportioned or allocated on or after October 1, 1994, shall remain available in the State until expended. All sums apportioned or allocated to Massachusetts on or after October 1, 1989, shall remain available until expended.

(2) OTHER FUNDS.—Except as otherwise specifically provided, funds apportioned or allocated pursuant to this title (other than for Interstate construction) in a State shall remain available for obligation in that State for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.

(c) SET ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.—

(1) SET ASIDE FOR CONSTRUCTION PROJECTS.—Before any apportionment is made under section 104(b)(5)(A) of this title for a fiscal year beginning after September 30, 1992, the Secretary shall set aside \$100,000,000. Subject to section 149(d) of the Federal-Aid Highway Act of 1987, such amount shall be available only for obligation by the Secretary in accordance with subsection (b)(2) of this section.

(2) SET ASIDE FOR 4R PROJECTS.—

(A) IN GENERAL.—Before any apportionment is made under section 104(b)(1) of this title, the Secretary shall set aside \$54,000,000 for fiscal year 1992, \$64,000,000 for each¹ fiscal years 1993, 1994, 1995, and 1996, and \$65,000,000 for fiscal year 1997 for obligation by the Secretary for projects for resurfacing, restoring, rehabilitating, and reconstructing any route or portion thereof on the Interstate System (other than any highway designated as a part of the Interstate System under section 139 and any toll road on the Interstate System not subject to an agreement under section 119(e) of this title, as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991). Of the amounts set aside under the preceding sentence, the Secretary shall obligate \$16,000,000 for fiscal year 1992

and \$17,000,000 for each of fiscal years 1993 and 1994 for improvements on the Kennedy Expressway in Chicago, Illinois. The remainder of such funds shall be made available by the Secretary to any State applying for such funds, if the Secretary determines that—

(i) the State has obligated or demonstrates that it will obligate in the fiscal year all of its apportionments under section 104(b)(1) other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System which has been submitted by the State to the Secretary for approval; and

(ii) the applicant is willing and able to (I) obligate the funds within 1 year of the date the funds are made available, (II) apply them to a ready-to-commence project, and (III) in the case of construction work, begin work within 90 days of obligation.

(B) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—In selecting projects to fund under subparagraph (A), the Secretary shall give priority consideration to any project the cost of which exceeds \$10,000,000 on any high volume route in an urban area or a high truck-volume route in a rural area.

(C) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Sums made available pursuant to this paragraph shall remain available until expended.

(d) In addition to amounts otherwise available to carry out this section, an amount equal to the amount by which the unobligated apportionment for the Interstate System in any State is reduced under section 103(e)(4) of this title on account of the withdrawal of a route or portion thereof on the Interstate System, which withdrawal is approved after the date of enactment of this subsection, shall be available to the Secretary for obligation in accordance with subsection (b)(1) of this section.

(e) The total payments to any State shall not at any time during a current fiscal year exceed the total of all apportionments to such State in accordance with section 104 of this title for such fiscal year and all preceding fiscal years.

(f) Funds made available to the State of Alaska and the Commonwealth of Puerto Rico under this title may be expended for construction of access and development roads that will serve resource development, recreational, residential, commercial, industrial, or other like purposes.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 897; Pub. L. 89-574, §7(a), Sept. 13, 1966, 80 Stat. 768; Pub. L. 94-280, title I, §117(a), May 5, 1976, 90 Stat. 436; Pub. L. 95-599, title I, §115(a), Nov. 6, 1978, 92 Stat. 2697; Pub. L. 96-106, §5(a), Nov. 9, 1979, 93 Stat. 797; Pub. L. 97-424, title I, §115, Jan. 6, 1983, 96 Stat. 2107; Pub. L. 100-17, title I, §§114(a)-(c), (e)(2)-(4), 115, Apr. 2, 1987, 101 Stat. 150-153; Pub. L. 102-240, title I, §1020, Dec. 18, 1991, 105 Stat. 1948; Pub. L. 102-388, title IV, §409, Oct. 6, 1992, 106 Stat. 1565.)

¹ So in original. Probably should be "each of".